

EXHIBIT 1

INTRODUCTION

This case arose from a Franchise Tax Board (FTB) audit of Californians for Gray Davis for the audit period of January 1, 1995 through December 31, 1998. Respondent Joseph Gray Davis was a successful candidate for governor in the 1998 General Election. Respondent Californians for Gray Davis was his controlled committee (hereinafter, the “Committee”).¹ During the audit period Steven Gourley was the Committee’s treasurer.

For purposes of this Stipulation, the violations of the Political Reform Act (hereinafter, “Act”)² are as follows:

COUNT 1: Failure to maintain records of major donor letters, in violation of Government Code section 84105.

COUNTS 2 – 18: Failure to file or timely file 17 late contribution reports, in violation of Government Code section 84203.

COUNTS 19 - 21: Failure to itemize all contributions of \$100 or more, in violation of Government Code section 84211, subdivision (f).

COUNTS 22 – 25: Failure to disclose subvendor information for expenditures, in violation of Government Code sections 84211, subdivision (j)(6), and 84303.

RESPONDENTS: Joseph Gray Davis, Californians for Gray Davis, and Steven Gourley, Treasurer.

SUMMARY OF THE LAW

COUNT 1

Section 84105 requires that a candidate or committee that receives contributions of \$5,000 or more from any person to inform the contributor that he or she may be required to file campaign reports as a major donor committee. Regulation 18427.1, subdivision (c) specifies that candidates and treasurers shall maintain a record of all notices sent to major donor contributors whose contributions totaled \$5,000 or more in a calendar year. The record must contain the date of each notice, and the name and address of each person to whom a notice was sent.

¹ The Committee has since amended its name to the Governor Gray Davis Committee.

² The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations section 18000, *et seq.* All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

COUNTS 2 –18

A late contribution is one that totals in the aggregate \$1,000 or more, and that is made to or received by a candidate, controlled committee, or a committee formed or existing primarily to support or oppose a candidate or measure, before the date of the election, but after the closing date of the last campaign statement required to be filed before the election. (Section 82036.)

If a late contribution is made or received, then a late contribution report must be filed disclosing the name and address of the contributor, the name and address of the recipient, and the candidate or ballot measure which is being supported. (Section 84203, subd. (a).) A late contribution report must be filed by the recipient within 24 hours of the time the late contribution is received. (Section 84203, subd. (b).)

COUNTS 19 – 21

Section 84211 requires that the total amount of all monetary and non-monetary contributions received during the reporting period be disclosed on the required campaign statement. Section 84211, subdivision (f) specifies that for any contribution of one hundred dollars (\$100) or more received from a person, the campaign statement must disclose the name, address, occupation, and employer of the contributor, the date and amount received, and the cumulative amount of all contributions received from that person.

COUNTS 22 – 25

Pursuant to Section 84211, subdivision (j), when the cumulative amount of expenditures made during a reporting period equals or exceeds one hundred dollars (\$100), the cumulative amount of the expenditures and information regarding the person to whom the expenditure was made must be reported on the committee's campaign statements.

An expenditure is made on the date the payment is made or on the date consideration, if any, is received whichever is earlier. (Section 82025.)

If an agent or independent contractor, including but not limited to an advertising agency, made the expenditure, on behalf of or for the benefit of a committee, the candidate or committee must report the expenditure as if the candidate or committee directly made the expenditure. (Section 84303.)

Section 84211, subdivision (j)(6) requires a candidate or committee to report itemized information about each person who provides consideration for an expenditure of one hundred dollars (\$100) or more, when the person's identity differs from that of the payee. The following (in part) should be reported: 1) the name of the person to whom the expenditure was made; 2) his or her street address; 3) the amount of each expenditure; and 4) a brief description of the consideration for which each expenditure was made.

SUMMARY OF THE FACTS

Respondent Joseph Gray Davis was a successful candidate for the June 2, 1998 Primary Election, and the November 3, 1998 General Election for governor. This case was the result of a mandatory audit conducted by the Franchise Tax Board. During the audit period, Respondents received contributions totaling \$35,958,704, and made expenditures totaling \$35,165,154.

COUNT 1

Respondents did not maintain copies of 88 major donor notification letters. The Committee's representative stated that she believes the letters were sent. However, without documentation it is impossible to verify this information without contacting all of the 88 contributors. Respondents' failure to maintain copies of 88 major donor notification letters constitutes one violation of Section 84104.

COUNTS 2 – 4

Failure to File Late Contribution Reports Prior to the June 3, 1998 Primary Election

The late reporting period for the June 2, 1998 Primary Election was May 17 through June 1, 1998. For every contribution that aggregated \$1,000 or more, received by the Committee during this late reporting period, Respondents should have filed a late contribution report within 24 hours of the time the contribution was received.

The Committee received the following contributions during the late reporting period for which no late contribution reports were filed:

COUNT	DATE OF CONTRIBUTION	CONTRIBUTOR	AMOUNT OF CONTRIBUTION
2	5/20/98	California Applicants' Atty. Assn. PAC	\$ 10,000
3	5/28/98	Alex R. Bellehumeur	\$ 1,188
	5/28/98	Paramount Pictures Group	\$ 2,500
	5/28/98	Paul J. Marron	\$ 1,000
4	5/29/98	Ira J. Waldman	\$ 1,000
Total dollars not reported on late contribution reports:			\$ 15,688

Respondents failed to file three late contribution reports disclosing the receipt of five late contributions totaling \$15,688, in violation of Section 84203. Respondents disclosed these contributions on the semi-annual campaign statement for the period ending June 30, 1998, filed on August 1, 1998.

COUNTS 5 – 16
Failure to File Late Contribution Reports prior to the
November 3, 1998 General Election

The late reporting period for the November 3, 1998 General Election, was October 18 through November 2, 1998. For every contribution that aggregated to \$1,000 or more, received by the Committee during this late reporting period, Respondents should have filed a late contribution report within 24 hours of the time the contribution was received.

The Committee received the following contributions during the late reporting period for which no late contribution reports were filed:

COUNT	DATE OF CONTRIBUTION	CONTRIBUTOR	AMOUNT OF CONTRIBUTION
5	10/18/98	William J. Lyons, Jr.	\$ 6,523
6	10/19/98	Local Societies of the CA Optometric Association PAC	\$ 1,600
	10/19/98	Richard Pena	\$ 1,000
7	10/20/98	Angelo T. Nicodemo	\$ 1,000
8	10/22/98	CA Faculty Association PAC	\$ 1,631
9	10/23/98	CA Faculty Association PAC	\$ 1,316
	10/23/98	Ellen T. Drew	\$ 1,000
10	10/25/98	Cadiz, Inc.	\$ 3,828
11	10/27/98	Cadiz, Inc.	\$ 4,193
12	10/28/98	CA Faculty Association PAC	\$ 1,292
13	10/29/98	Janice Atkinson	\$ 1,000
	10/29/98	Rick Tuttle Office Holder Fund	\$ 1,000
14	10/30/98	Cadiz, Inc.	\$ 5,848
	10/30/98	Elizabeth Plott Tyler & Associates	\$ 1,000
15	11/1/98	Lynn M. Sedway	\$ 1,000
16	11/2/98	Dennis E. Wagner	\$ 1,000
	11/2/98	Ted Waitt	\$ 25,000
	11/2/98	Ultramar Diamond Shamrock Corp.	\$ 1,000
	11/2/98	West L.A. Music Inc.	\$ 2,000
Total dollars not reported on late contribution reports:			\$62,231

Respondents failed to file twelve late contribution reports disclosing the receipt of nineteen late contributions totaling \$62,231, in violation of Section 84203. Respondents disclosed the receipt of these contributions on the semi-annual campaign statement for the period ending December 31, 1998, filed on February 2, 1999.

COUNTS 17 - 18
Failure to Timely File Late Contribution Reports Prior to
the November 3, 1998 General Election

Prior to the November 3, 1998 General Election, the Committee also received 23 contributions during the late reporting period, for which two late contribution reports were not timely filed:

COUNT	DATE OF CONTRIBUTION	CONTRIBUTOR	AMOUNT OF CONTRIBUTION	DATE REPORT WAS DUE	DATE REPORT WAS FILED
17	11/1/98	Nancy Camara	\$ 1,000	11/2/98	11/3/98
	11/1/98	Randy Weil	\$ 1,000	11/2/98	11/3/98
	11/1/98	Law Office of Paul Wotman	\$ 1,500	11/2/98	11/3/98
18	11/2/98	Autocenter Autobody of Temecula	\$ 1,000	11/3/98	11/5/98
	11/2/98	Alan A. Berger	\$ 2,000	11/3/98	11/5/98
	11/2/98	Browning-Ferris Industries	\$ 2,900	11/3/98	11/5/98
	11/2/98	California Credit Union League, PAC	\$ 1,500	11/3/98	11/5/98
	11/2/98	California Veterinary Medical	\$ 1,000	11/3/98	11/5/98
	11/2/98	Ebensteiner Co.	\$ 5,000	11/3/98	11/5/98
	11/2/98	Duncan C. Frates	\$ 1,000	11/3/98	11/5/98
	11/2/98	Gigi Gordon	\$ 1,500	11/3/98	11/5/98
	11/2/98	Patricia E. Gould	\$ 1,000	11/3/98	11/5/98
	11/2/98	Sol Lizerbram	\$ 10,000	11/3/98	11/5/98
	11/2/98	Lockheed Martin, IMS	\$ 10,000	11/3/98	11/5/98
	11/2/98	Melaniee Lomax	\$ 2,000	11/3/98	11/5/98
	11/2/98	Michael Roback, MD	\$ 10,000	11/3/98	11/5/98
	11/2/98	Novartis Finance Corp	\$ 5,000	11/3/98	11/5/98
	11/2/98	Ontario Firefighters for Responsible Government	\$ 1,000	11/3/98	11/5/98
	11/2/98	Operating Engineers Local Union No. 3	\$ 1,500	11/3/98	11/5/98
	11/2/98	PRWT Services, Inc.	\$ 5,000	11/3/98	11/5/98

COUNT	DATE OF CONTRIBUTION	CONTRIBUTOR	AMOUNT OF CONTRIBUTION	DATE REPORT WAS DUE	DATE REPORT WAS FILED
	11/2/98	Raymond M. Contreras	\$ 1,000	11/3/98	11/5/98
	11/2/98	Michael Sweeney for Senate	\$ 1,000	11/3/98	11/5/98
	11/2/98	United Pilots PAC	\$ 5,000	11/3/98	11/5/98
Total dollars not timely reported on late contribution reports:			\$ 71,900		

Respondents' failure to timely file the late contribution reports within 24 hours of the time the contribution was received constitutes two violations of Section 84203. Respondents paid a late file fee in the amount of \$420, assessed by the Secretary of State's Office for these two late reports.

In total, Respondents failed to file, or timely file, late contribution reports for 48 contributions totaling \$160,694. However, Respondents timely and properly filed late contributions reports for approximately 94% of the contributions received during the late contribution reporting periods (731 of 779 contributions), which amounted to approximately 97% of the total dollar amount of those contributions (\$5,394,954 of \$5,555,648).

COUNTS 19-21

Failure to Timely Report Monetary Contributions

Over the course of three reporting periods, Respondents failed to itemize monetary contributions received by the Committee as follows:

COUNT	REPORTING PERIOD	FILING DEAD-LINE	NUMBER OF CONTRIBUTIONS NOT REPORTED	AMOUNT OF CONTRIBUTIONS NOT REPORTED
19	7/1/98 – 9/30/98	10/5/98	502	\$ 85,775
20	10/1/98 – 10/17/98	10/22/98	20	\$ 2,900
21	10/18/98 – 12/31/98	2/1/99	79	\$ 12,500
Total amount of monetary contributions not reported:				\$101,175

All of the contributions, which Respondents failed to report during the July 1, 1998 through September 30, 1998 reporting period, were reported on the electronic statement voluntarily filed by Respondents for this period. However, the paper copies of campaign statements are the originals, and all information required to be disclosed by Section 84211 must be disclosed on the originals. Further, because the voluntarily filed electronic statements were not maintained by the Secretary of State and, Respondents never amended the paper copy of the

campaign statements to disclose the missing information, the information was no longer accessible to the public after the election.³

Respondents' failure to itemize monetary contributions received totaling \$101,175, over three reporting periods constitutes three violations of Section 84211, subdivision (f).

COUNTS 22 - 25
Failure to Disclose Subvendor Information

Over the course of four reporting periods, Respondents failed to disclose or timely disclose all of the required subvendor information for expenditures made on behalf of the Committee by Luc Media:

COUNT	REPORTING PERIOD	FILING DEAD-LINE	DATE AMENDMENT FILED	AMOUNT OF SUBVENDOR EXPENDITURE
22	3/18/98 – 5/16/98	5/21/98	8/1/98	\$2,855,186.23
23	5/17/98 – 6/30/98	7/31/98	N/A	\$1,146,709.33
24	7/1/98 – 9/30/98	10/5/98	11/2/98 ⁴	\$1,740,622.85
25	10/1/98 – 10/17/98	10/22/98	11/2/98	\$3,437,880.25
Total amount of subvendor expenditures not disclosed or not timely disclosed:				\$9,180,398.66

On each of the four reports, Respondents disclosed making significant expenditures to Luc Media. Luc Media was a paid media consultant that made payments to various subvendors on behalf of Respondents. Respondents failed, however, to report or timely report the name and address and amount expended for each of these subvendors, who received a total of \$9,180,398.66 in payments during the four reporting periods. Respondents did, however, timely disclose on their campaign statements the consideration for which the expenditures were made. Of the \$9,180,398.66 not timely disclosed, \$2,887,331 was not disclosed prior to the Election.

By failing to identify subvendors, Respondents committed four violations of Section 84211, subdivision (j)(6) during the four reporting periods.

³ For the 1998 General Election, the Secretary of State initiated an electronic campaign reporting project. Committees could, in addition to filing the paper copies of statements, voluntarily file their statements electronically on the Secretary of State's web site. Because the reporting project was a pilot project, the Secretary of State did not maintain the electronic filings after January 1, 2000.

⁴ Respondents did not file an amendment for this reporting period. However, the subvendor information was disclosed on the amendment filed on November 2, 1998 for the reporting period 10/1/98 – 10/17/98.

CONCLUSION

In 1994, the Commission issued an advisory letter to then Controller Gray Davis and his controlled committee for the failure to adequately maintain reliable records.

Respondents timely and accurately reported over 99% of their receipts and 74% of their expenditures.

This matter consists of 25 counts, which carry a maximum possible administrative penalty of fifty thousand dollars (\$50,000). The facts of this case, as discussed above, justify imposition of the agreed upon penalty of fifty thousand dollars (\$50,000).